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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,672	12/12/2003	Scott W. Ziegler	005	6319
7590 PETER R. MARTINEZ P.O.BOX 131313 CARLSBAD, CA 92013			EXAMINER HYLTON, ROBIN ANNENETTE	
			ART UNIT 3781	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/19/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/734,672	ZIEGLER, SCOTT W.	
	<b>Examiner</b> Robin A. Hylton	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 October 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2,5-13,18 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) 20-25 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2,5-13 and 18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

### ***Response to Amendment***

1. The amendment filed October 20, 2006 incorrectly identifies claim 1 as "previously presented". The markings therein as well as applicant's remarks at page 8, paragraph 1 indicate the claim is "currently amended". For advancement of prosecution, the examiner has provided a corrected copy of the listing of claims. Applicant is advised to correctly identify claims in any future amendments.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Dickover et al. (US 3,216,865).

Dickover teaches an adaptor comprising a cap 13 having an aperture 31, an annular base 23 extending from the cap, and an insert 21 of softer material than the base of the cap, the insert having threads 24. The disclosure at column 3, lines 44-48 indicates the aperture including the upper lip 43 is "is sized to pass a drinkable fluid".

### ***Claim Rejections - 35 USC § 103***

4. Claims 1,2,5-11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mount et al. (3,120,912) in view of Dick.

Viewing the embodiments illustrated in figures 6-8, Mount teaches an adaptor comprising a cap having an aperture, an annular base 23, a recess 27 provided adjacent to and spaced from the base, an unnumbered lip providing the recess between the base and the lip, and a container therefor. See column 3, lines 70-76 regarding the engagement between the

base, recess and lip. Mount teaches there is a snap-fit engagement between the adaptor and container via bead **25** of the adaptor and recess **26** of the container.

Dick teaches it is known to utilize screw threads or snap-fit engagement to secure a closure to a container (col. 4, lines 48-51). Thus, providing a teaching of the structural equivalence of snap-fit engagement and threaded engagement for their use in the closure art for securing a closure to a container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the snap-fit bead of Mount with the threads of Dick as taught therein for known structural equivalent closure and container engaging structure. In the instant case, the screw threads provide an easier method of engaging and disengaging the closure with respect to the container in view of the associated engagement between the lipped recess and the container bead.

Regarding the claimed taper, it would have been obvious at the time the invention was made to provide the taper of the magnitude claimed since applicant has not disclosed that having a 5° taper solves any stated problem or is for any particular purpose, and it appears that any small taper would perform equally well as the 5° taper of applicant's invention. It is noted this common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Dickover.

Mount as modified teaches the claimed adaptor and container except for the insert having threads attached to the base of the cap.

Dickover teaches an adaptor comprising a cap having an aperture, an annular base extending from the cap, and an insert of softer material than the base of the cap, the insert having threads.

It would have been obvious at the time the invention was made to apply the teaching of an insert having threads to the cap of Mount, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Doing so allows for an adaptor formed of durable plastic material to form a liquid-tight seal with an associated container via pliable threaded material. It is noted this common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.

***Response to Arguments***

6. Applicant's arguments filed October 10, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Dickover does not provide a teaching of a "cap having a recess sized to pass a drinkable fluid", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Moreover, wherein the disclosure of Dickover sets forth the aperture allows for venting or filling of an associated container as argued by applicant, the aperture is sized to allow passage of a drinkable fluid.

Regarding applicant's remarks at page 12, paragraph 1, the above rejection cites that portion of the reference that clearly indicates the closure of Mount comprises a "lip opposite the

base and defining a portion of the recess to more fully enclose the bead of the cup". Thus, applicant's argument is not persuasive.

Wherein applicant requested a teaching reference for the Official notice statement regarding the structural equivalence of snap-fit engagement and threaded engagement for their use in the closure art for securing a closure to a container, the patent to Dick has been used in the rejection above and made of record.

It is again noted the common knowledge or well-known in the art statements are taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Applicant is duly reminded that a complete response must satisfy the requirements of 37

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C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

9. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

10. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_  
Signature\_\_\_\_\_

Date \_\_\_\_\_

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH  
January 5, 2007

Robin A. Hylton  
Primary Examiner  
GAU 3781